

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

DANNIE RAY HILLHOUSE,

Petitioner,

vs.

ROBERT K. WONG,

Respondent.

No. CIV S-03-0142-MCE-CMK

DEATH PENALTY CASE

ORDER

Petitioner, a state prisoner proceeding with appointed counsel, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is Petitioner's motion for an extension of time (Doc. 182) to file an answer to petitioner's amended petition. Also pending before the court is Respondent's motion for relief from default (Doc. 180). No opposition to either motion has been filed or is expected.

Respondent was one day late in filing his answer. This delay was due to computer problems counsel experienced in formatting the final draft prior to filing. Good cause appearing therefor, Respondent's request is granted, and the answer is deemed timely filed.

The filing of the answer started the clock for the filing of Petitioner's traverse, if any. The court notes that the filing of a traverse is optional, and this court generally finds the

1 filing of a traverse unnecessary in death penalty habeas cases as the parties file merits briefs in  
2 Phase III. See Rule 5, Fed. R. Governing § 2254 Cases. In addition, the court notes that as far as  
3 it is aware, no funding has been authorized for the filing of a traverse in this matter. Counsel is  
4 therefore cautioned against spending unbudgeted time researching and filing an unnecessary  
5 traverse. However, good cause appearing therefor, Petitioner's request is granted. Petitioner will  
6 have up to, and including, September 30, 2010, to file a traverse if necessary.

7 IT IS SO ORDERED.

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9 DATED: August 13, 2010

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11 **CRAIG M. KELLISON**  
12 UNITED STATES MAGISTRATE JUDGE  
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